

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

CINDY L. KIROUAC,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2:11-cv-00423-NT
)	
PATRICK R. DONAHOE)	
<i>Postmaster General, United States</i>)	
<i>Postal Service,</i>)	
)	
Defendant.)	

**ORDER ON OBJECTIONS TO DR. CAMPBELL'S DESIGNATED
DEPOSITION TESTIMONY**

On October 22, 2013, the parties cross-filed objections and responses to portions of designations of Dr. Campbell's testimony. The Court makes the following rulings on those objections.

- **Page 8, Lines 23-25**
- **Page 9, Lines 7-8**
- **Page 45, Line 21 through Page 47, Line 12**
- **Page 117, Line 11 through Page 120, Line 14**

See Order on February 26, 2008 letters by Dr. Campbell. (ECF No. 240).

- **Page 9, Line 24**

The Court questions whether the parties meant to remove the last two words of this line.

- **Page 10, Lines 20-25**
- **Page 12, Line 20 through Page 13, Line 7¹**

The Plaintiff proposes to omit as irrelevant portions of Dr. Campbell's testimony pertaining to Attention Deficit Disorder. The Defendant argues that the

¹ The Plaintiff's response to the Defendant's objection on pages 12-13 does not line up. Plaintiff refers only to Page 12: Lines 1-18. The Plaintiff is directed to include all of page 12 and the first seven lines of page 13.

testimony should be allowed under the rule of completeness. *See* Fed. R. Evid. 106. The Court agrees with the Defendant and the Plaintiff is directed to include the designated portion.

- **Page 13, Line 14**

The Court questions whether the parties meant to remove this line.

- **Page 14, Lines 17-23**

The Plaintiff proposes to omit this testimony related to the stress attributable to Plaintiff's son's criminal behavior. For the reasons stated in the Order on the Plaintiff's Motion in Limine to Preclude Evidence of her Son's Recent Legal Problems (ECF No. 213), the Court directs the Plaintiff to include this designation.

- **Page 16, Lines 19-25**

- **Page 17, Lines 1-10**

The Defendant's objection is overruled.

- **Page 28, Lines 8-24**

- **Page 29, Lines 4-6**

This portion of the transcript is highlighted, but the Court finds neither objection nor response to this designation.

- **Page 33, Line 16 through Page 34, Line 7**

The Plaintiff proposes to omit, but does not provide the basis for omitting. The Defendant requests inclusion of the testimony under the rule of completeness. *See* Fed. R. Evid. 106. The Court directs the Plaintiff to include this designation.

- **Page 51, Line 16 through Page 52, Line 11**

This portion of the transcript is highlighted, but the Court finds neither objection nor response to this designation.

- **Page 66, Lines 6-12**

The Plaintiff's objection² is overruled.

- **Page 70, Line 14 through Page 71, Line 11**
- **Page 71 Lines 20-25**

The Plaintiff's objections are overruled.

- **Page 80, Line 1 through Page 94, Line 25**

The Plaintiff objects to fourteen pages of cross-examination,³ offering “FRE 401, 402 (not relevant), 602 (lacks personal knowledge) and 701, 702 (not qualified to offer opinion on issues questioned concerning).” No further analysis is provided. The Defendant's response does not completely match the Plaintiff's objections (*see, supra*, n. 2), but the Defendant offers analysis for why the material is relevant. The Court finds the general line of questioning to be relevant and offered in part to demonstrate that Dr. Campbell lacks knowledge about the players and events at the Post Office other than through the information provided to him by the Plaintiff, a fair point to make on cross-examination. *See* Order on Def.'s Daubert Mot. to Exclude Testimony of Dr. Carlyle Voss (ECF No. 131).

² This objection appears only in the Defendant's Response (ECF No. 196-1) and not in the Plaintiff's own objections (ECF No. 201). Defense counsel explained at a pre-trial conference held on October 29, 2013, that after counsel conferred and he drafted and filed his Response to Objections, the Plaintiff filed a document which removed some of the objections made on the document he had been working from. The Plaintiff indicated at the conference that she wished to preserve the objection to lines 6-12 of page 66, but that any other objections which were not contained in Plaintiff's Objections were withdrawn.

³ The Plaintiff does not object to the first sixteen lines of page 85 and the Court questions whether the Plaintiff actually meant to object to those lines as well, since this excerpt begins mid in the middle of Dr. Campbell's answer. It seems more likely that the Plaintiff meant to object to the entire page but made a typographical error. The Plaintiff also does not object first seven lines on page 86 which again demarks an excerpt taken mid answer.

The Plaintiff's objections are overruled, with the following exceptions. The Plaintiff's objection to Page 86, Line 21 through Page 87, Line 7 is sustained. The Plaintiff's objections to the following lines are sustained based on the Order on the Plaintiff's Motion in Limine to Exclude Arbitrator's Decision (ECF No. 238): Page 86, Line 21 through Page 87, Line 7; Page 89, Line 7 through Page 90, Line 13; Page 92, Lines 8-22; Page 94, Line 5 ("Number three, that an arbitrator ruled against her."); Page 94, Line 12 ("and arbitrators"); Page 94, Lines 16-25.

- **Page 97, Lines 17-25**
- **Page 98, Line 23 through Page 99, Line 12**
- **Page 102, Lines 4-5**
- **Page 103, Line 22 through Page 106, Line 12**

The testimony all involves the Plaintiff's son, Glenn. For the reasons set forth in the Order on the Plaintiff's Motion in Limine to Preclude Evidence of her Son's Recent Legal Problems, the Court overrules the Plaintiff's objections. To the extent that the Plaintiff raises additional bases for the objections (Rules 602, 701, 702), those objections are also overruled.

- **Page 109, Lines 11-25**

Removed by agreement.

- **Page 123, Line 13 and Line 21**

Defense counsel made two objections to form which are highlighted in the transcript, but no other portion of the transcript is designated and there is no discussion of the objection in the margin. To the extent that the Defendant is still pressing these objections, they are overruled.

- **Page 134, Lines 5-25**

Defendant's objection is overruled.

– **Page 135, Lines 1-5**

Defendant objected as asked and answered; Plaintiff indicated that she would strike the question. The lines should be omitted.

– **Page 135, Line 7 through Page 136, Line 2**

Defendant's objections are overruled.

– **Page 137, Line 9 through Page 139, Line 16**

Defendant's objections are overruled.

– **Page 140, Lines 9-25**

Defendant's objections are overruled.

– **Page 154, Lines 12-23**

– **Page 155, Lines 1-2**

The Plaintiff proposes to omit and Defendant argues that the testimony should be allowed under the rule of completeness. The Court agrees with the Defendant and the Plaintiff is directed to include the designated portion.

– **Page 160, Line 7 though Page 161, Line 6**

The transcript indicates that the parties have removed by agreement. The Plaintiff provides a response to an objection that states: "Proper redirect if re-cross is approved." It is not clear to the Court what the parties mean by this. The Court will order the designated portion removed, subject to clarification by the parties.

SO ORDERED.

/s/ Nancy Torresen
United States District Judge

Dated this 6th day of November, 2013.

Plaintiff

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